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“You learn a lot from your teachers but mostly from your students”

An interview with Joseph H. H. Weiler

DANA SCHMALZ — JOSEPH WEILER — RAFFAELA KUNZ — 6 July, 2017



From [Joseph Weiler](#) you can learn a lot – not only about what he teaches, but also about how to teach. That was the widely shared impression of participants in the 2017 [Masterclass](#) at the [Max Planck Institute for Comparative Public Law and International Law](#) in Heidelberg. At the end of four amazing days of discussion and learning, Joseph Weiler kindly agreed to give an interview, and to talk about jokes, teaching, and the human condition.

1. You are a good teller of jokes. Is there any relationship between the art of telling jokes and legal scholarship?

I don't know, I never thought of it. There's a connection between the art of telling jokes and being a good teacher, I think, but I am not sure whether there is a connection between the art of telling jokes and being a good legal scholar, except that we should never take the law too seriously. What characterizes Jewish jokes is that they are always self-ironic. It's an attitude of self-skepticism; you laugh at yourself. Self-skepticism is one of the characteristics of the scholarly mind, to be always skeptical – but not only about what you are observing, also about your observation. In terms of teaching, there is a Talmudic saying: “The strict cannot teach, and the timid cannot learn.” The joke helps to diffuse the atmosphere, to make people comfortable, to not be worried to express themselves. If the teacher is laughing at himself, then it's okay if I say something that might appear stupid. When we are learning, we are equal. Some have more experience – but you cannot teach through authority. Of course there is a hierarchy, but the joke helps diffuse the intellectual hierarchy. So maybe there is a connection.

2. On the point of equality between teachers and students: In a [blog article on EJILtalk!](#), you speak about the talmid chacham, meaning the highest accolade of a scholar to be viewed as a knowledgeable pupil. May we call you one? And could you tell what has been one important lesson you learned from your students over the last, say five years?

Again we go to a Talmudic saying: “You learn a lot from your teachers but mostly from your students”. That's an exaggeration, but in every course I gave I learned from my students. First of all, there's always a moment in the course where a student says

something you have never thought of before. But I have another thing that I learn: In the class, I try to explain something to the students and they don't understand it, I can see it from their body language, their faces. You think they are maybe not as smart as you thought, you'll explain it again – and if they still don't understand it, then you know you don't understand it. Law is not a very difficult subject, even the biggest idiot can understand it – so when you cannot explain something for the second time, you realize you don't understand it well. This is a very good education you get from your students.

3. Teaching is of huge importance to you, and it works through spontaneous, oral engagement. At the same time, you emphasize the role of the text, to read judgments carefully and to work with the text. This distinction between the written and the oral: how can it illuminate our thinking about method in legal scholarship?

I am very text-oriented, although I am a contextual lawyer. I am not a kind of black letter lawyer, but the text is the beginning point. Yet I am a great believer in the oral tradition. From a didactic point of view, that's the function of teaching. We wouldn't need teachers, you could just write lectures and let students read them. In the oral tradition, you manage to do so much better because of the engagement, because the student sees the problem that the law is trying to answer. So the oral tradition is indispensable. That's why even before courts, they don't only accept briefs, there is also an oral hearing. German culture is so fixated on text. You remember the first Solange case: "Until there is a written Charter...". Yes, predictability is important, but the downside of that is the huge authority given to the text. I think there's a nice dialectical relationship between the written text and the oral tradition. You need both.

4. You said "the timid cannot learn". As a teacher, you experience a lot of admiration – how much admiration is healthy, and when does it become unhealthy idolization?

Respect for your teacher is healthy, I would say. With admiration we already enter a bad territory. The bad thing is that it weakens the critical faculty of the student. If you admire the teacher, everything he or she says is true. But the worst is, it cultivates bad things in the teacher. That's why when it comes to doctoral students I am in favor of very light supervision. I don't like the English way of supervision, "we meet every month, what have you written for me", etc. Then you are writing not for yourself, you are writing for your supervisor. You talk about ideas with him or her, and then suddenly you don't know what are your ideas, what are his. It's a terrible way of supervision, it creates dependency. Admiration can kill the ability to say: "I learned a lot from you, but actually my conclusion is that it is wrong." Respect is a good emotion, but a relation of idolization is not healthy. It kills your critical faculties and it feeds the narcissism of the teacher.

5. You wrote a novel, "Removed", and you say it's your best book – why?

It is my criterion for good work if it engages with the human condition. Ultimately, what lasts in the world of ideas are those things that engage with the human condition. It's also the book I spent most time on, even though it's short. For some chapters I had 17 drafts. Maybe I want to believe that it's my best book because I worked on it so hard. But it is the book where I most directly engage with the human condition. In my other work, I always try to engage with the human condition but sometimes the law gets in the way. It can be difficult to engage with the human condition. Everything else that you write, it's good or it's bad depending on what it's written for, and after two years it is as if it were never written. And who cares, if you would not write it then somebody else would. You really think you made some kind of earthshattering? Whereas for that novella, in its little way it is not like if I did not write it somebody else would have written it. That's why I think it's

my best book, because it most directly engages with the human condition.

6. So are there certain topics and big questions that you cannot really address with scholarship and that lend themselves better to be treated in the literary form?

No, you can address them, but in a novel you can address them more directly. There is also another difference: There are two kinds of knowledge. You can read Stendhal's essays on love, and it's profound and you learn a lot, but it's not like falling in love. You understand love in a different way if you experience and if you read about it. There's cognitive knowledge and experiential knowledge. In the novel, it is experiential knowledge. It's not conceptual, it's not theoretical; your engagement with the human condition is through experience. The experience of the protagonist; the experience of the narration; esthetics are a very important part of it, the beauty. You can deal with all of this in scholarship, but you deal with them in a different way, you deal with them cognitively. To the novella people react emotionally, whereas when I write even a profound legal article, they don't react emotionally, they react cognitively. These things are not exclusive, they complement each other.

7. You speak many languages – is there a difference in thinking about international law in English, Hebrew, or Spanish? And is the dominance of English a problem for international law?

It's not only intellectual. Language conditions lots of sensibilities. There are sensibilities that just get lost if we write in English or in any different language. But it's a lost game. In the Austro-Hungarian Empire everybody spoke three, four languages, also not particularly well-educated persons. To speak four languages was just the norm. My father grew up speaking six or seven languages, not like me taking lessons and learning, it was just, you grow up you speak lots of languages. I don't think the problem is so much for international law as an academic discipline. I am not sure what is lost in the domination of English. It has a different loss: That everybody knows their own language and English. And the English-speaking they only know English. What people write in other languages is not accessible to them. There is a loss to scholarship, because all the richness that comes from people writing in their own language is lost.

8. In an [article in EJIL 1992](#), "Thou Shalt Not Oppress a Stranger", you quote Hermann Cohen, the great philosopher of religion: "In the alien, man discovered the idea of humanity." This discovery of the idea of humanity, is it a continuous process, one that every person makes again and again?

This was a great formulation by Cohen, because it's really true. What connects us to the stranger is our common humanity. It's not our language or tradition or custom or food or religion, what connects me to the stranger is our common humanity. So through the stranger you discover humanity. If we think that European integration is also about redefining how we understand humanity, it is important to have Germans and Italians and accept them in their otherness. One of the noble dimensions of European integration is that it preserves the otherness and it's through this that you learn tolerance.

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